

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

WINIFRED BLACKLEDGE,)	
)	
Plaintiff,)	
)	
v.)	Case No. CV 2:06CV321-ID - SJW
)	
ALABAMA DEPARTMENT OF MENTAL)	
HEALTH AND MENTAL)	
RETARDATION; and JOHN HOUSTON)	
in his official capacity as Commissioner,)	
)	
Defendants.)	

DEFENDANTS' MOTION FOR LEAVE TO AMEND
ANSWER (CM/ECF DOC # 22)

Come now the Defendants, by and through their attorneys of record, Alabama Deputy Attorney General, Courtney Tarver, and Alabama Assistant Attorney General Rebecca Luck, and move this honorable court leave to amend Answer (CM/ECF Doc # 22) pursuant to Federal Rules of Civil Procedure, Rule 15 (b), and for cause would show that fairness dictates that the amendment be allowed, and that no party will suffer prejudice due to the amendment as all parties are on notice of the issue of the running of the statute of limitations as to certain claims in this case. Defendants rely on this motion, the brief in support of this motion filed herewith, Plaintiff's Exhibits No. 3, and No. 14, copies of which are attached hereto, and the proposed Amended Answer attached hereto; as follows: Addition of the following paragraph:

The Plaintiff's 42 USCA § 1981/§ 1983 claims are barred by Code of Alabama § 6-2-38 two year statute of limitations. *Jones v. R.R. Donnelley & Sons Company*, 541 U.S. 369, 124 S.Ct. 1836(2004); *Marshall v. Daleville* Civil Action No. 1:05-CV-386-WHA. 2006 W: 2056581 *2 (M.D. Ala; July 24, 2006) (Not reported in F.Supp. 2d, a copy of opinion

is attached); *Palmer v. Stewart Co. School District*, 178 Fed.Appx. 999 (11th Cir. May 10. 2006) (Copy of Opinion Attached); *Hithon v. Tyson Foods, Inc.*, 144 Fed. Appx. 795 (11th Cir. August 3, 2005) (Copy of Opinion Attached).

WHEREFORE, Defendants pray this Honorable Court will allow filing of the proposed Amended Answer clarifying the affirmative defense, the running of the statute of limitations for certain claims in this action.

Respectfully submitted, this 25th day of January, 2008.

TROY KING

ATTORNEY GENERAL

/s/ Courtney W. Tarver

Courtney W Tarver (TAR 099)

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CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2008, I electronically filed the foregoing “Defendant’s Motion for Leave to Amend Answer (CM/ECF Doc # 22)” with the Clerk of the Court using the CM/ECF system which will send electronic notification of such filing to the following: Rocco Calamusa, Esq., Joshua D. Wilson, Esq., and Benjamin J. DeGweck, Esq.

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/s/ Courtney W. Tarver
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